



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 26, 1995

Ms. Cheryl N. Elliott
University General Counsel
Texas Southern University
3100 Cleburne Avenue
Houston, Texas 77004

OR95-223

Dear Ms. Elliott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32538.

Texas Southern University (the "university") received a request for a copy of a report prepared by a consultant evaluating the police department and its law enforcement stability. You have provided a copy of the requested report and claim that it is excepted from disclosure pursuant to sections 552.105 and 552.108 of the Government Code.

Section 552.105 excepts information pertaining to negotiations for the acquisition of real or personal property until the transaction has been completed. Open Records Decision No. 310 (1982). We are unable to determine how this exception applies to the information at issue. A governmental body has the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). If a governmental body fails to show how an exception applies to the records, it will ordinarily waive the exception unless the information is deemed confidential by the act. See Attorney General Opinion JM-672 (1987). Therefore, the information may not be withheld pursuant to section 552.105.

Section 552.108 provides that:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, and prosecution of crime is excepted from [required public disclosure].

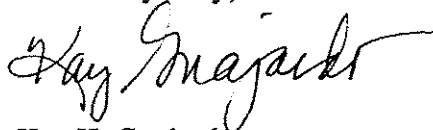
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

You claim that the requested report is an internal record or notation of a law enforcement agency maintained for internal use in matters relating to law enforcement. Generally, information may be withheld under section 552.108(b) only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

You have not provided specific arguments as to how the information would interfere with law enforcement. Our review of the records indicates that the report contains general descriptions of the structure of the department and fairly general recommendations for improvement. As you have provided no explanation as to how the information will interfere with law enforcement efforts, we have marked the documents to indicate those portions that on their face show that their release would interfere with law enforcement. The university may withhold these marked portions under section 552.108. The remainder of the report must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LMM/rho

Ref.: ID# 32538

Enclosures: Marked documents

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